

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAETHEM EQUIPMENT COMPANY,
LAETHEM FARM SERVICE COMPANY
MICHAEL T. LAETHEM and MARK E.
LAETHEM,

Plaintiffs,

Case Number 05-10113
Honorable David M. Lawson
Magistrate Judge Paul J. Komives

v.

DEERE & COMPANY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
DENYING DEFENDANT'S MOTION FOR SANCTIONS, MODIFYING CASE
MANAGEMENT DEADLINES, AND ALLOWING LIMITED ADDITIONAL DISCOVERY**

Presently before the Court is the report issued on August 31, 2009 by Magistrate Judge Paul J. Komives pursuant to 28 U.S.C. § 636(b), recommending that the Court deny the defendant's motion for sanctions regarding a round of depositions conducted in December 2008. The magistrate judge also recommended that the Court permit some additional discovery of trial witnesses. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Included in the magistrate judge's recommendations is a suggestion that the defendant be allowed to take the deposition of any of the plaintiffs' trial witnesses not previously deposed and to file a motion *in limine* to exclude evidence on the ground of spoliation. In the Court's order of August 27, 2009, an allowance already was made for motions *in limine*, but in light of the magistrate judge's suggestion, the deadline for disclosures and additional discovery ought to be modified so that the names of anticipated trial witnesses can become known to all parties.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 388] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion for sanctions [dkt # 355] is **DENIED**.

It is further **ORDERED** that the Order of August 27, 2009 is modified as follows: a list in the form required by Fed. R. Civ. P. 26(a)(3) of the witnesses (both lay and expert) whom a party may call to testify, and exhibits, shall be filed with the Clerk of the Court and served on opposing counsel on or before **October 19, 2009**. Discovery depositions of trial witnesses whose depositions have not been taken may be conducted until **November 18, 2009**.

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: September 21, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 21, 2009.

s/Lisa M. Ware

LISA M. WARE